

UNITED STATES COURT OF APPEALS

Filed 12/8/95

TENTH CIRCUIT

---

CHARLES MICHAEL BYERS,

Plaintiff - Appellant,

v.

ANTHONY BELASKI, PAUL GIRVAN,  
DEANNA AVILA, LOWELL GREEN,  
D. J. FITZGERALD, JOE SILVEY,  
GWEN TAYLOR, LEON HARRISON,  
CLIFF YOUNG, UNITED STATES  
BUREAU OF PRISONS, UNITED  
STATES DEPARTMENT OF JUSTICE,  
and UNITED STATES OF AMERICA,

Defendants - Appellees.

No. 95-1300

D. Colorado

(D.C. No. 91-Z-1504)

---

**ORDER AND JUDGMENT\***

---

Before **ANDERSON, BALDOCK**, and **BRORBY**, Circuit Judges.

---

After examining the briefs and appellate record, this panel has determined  
unanimously that oral argument would not materially assist the determination of this

---

\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of the court's General Order filed November 29, 1993. 151 F.R.D. 470.

appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. This cause is therefore ordered submitted without oral argument.

Charles Michael Byers filed suit in the district court alleging constitutional claims arising from his incarceration as a federal prisoner. Specifically, Byers alleges damages based on 1) transfer to a higher security facility and denial of transfer to a prison camp or halfway house, 2) denial of meritorious good time credits, 3) denial of necessary medical and dental care, 4) exposure to environmental tobacco smoke, and 5) denial of \$500 release gratuities. We have reviewed the record in this case and, substantially for the reasons stated in the magistrate judge's report and recommendation filed November 2, 1993, and the district court's order of dismissal filed June 28, 1995, we agree with the district court that Byers' complaint fails to allege facts sufficient to state any constitutional claim.

AFFIRMED.

ENTERED FOR THE COURT

Stephen H. Anderson  
Circuit Judge